

Application No.: 09/839,664  
Response to OA of 04/05/06

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### Remarks

In the present response, two claims (1 and 10) are amended. Claims 1-2, 4-12, and 15-19 are presented for examination.

#### I. Claim Rejections: 35 USC § 112

Claims 1-2, 4-12, and 15-19 are rejected under 35 USC § 112, second paragraph, as failing to particularly point out and claim the subject matter. The Office Action argues that claims 1, 6, and 10 recite the phrase if “at least” one server and therefore are indefinite. Applicant respectfully traverses these rejections.

Section 112, second paragraph, requires that the claims particularly point out and distinctly claim the subject matter which an applicant regards as his invention. To satisfy this threshold, claim recitations must allow one skilled in the art to understand the bounds of the claim when read in light of the specification. *See Exxon Research and Engineering cov United States*, 60 U.S.P.Q. 2d 1272, 1276 (Fed. Cir. 2001). Thus, it is only if “a claim is **insolubly ambiguous**, and no narrowing construction can be properly adopted” can a claim be held as indefinite. *See id.* (Emphasis added). The Federal Circuit has made clear that “[i]f the meaning of a claim is discernable even though the task may be formidable and the conclusions may be one over which reasonable persons will disagree,” the claim will be viewed sufficiently clear to avoid indefiniteness. *See id.*

Clearly, the meaning of the phrase “if at least one server” in claims 1, 6, and 10 is discernable. This recitation is clear and means what it says: If at least one server = If one or more servers.

Merriam Webster (see [www.m-w.com](http://www.m-w.com)) is an online dictionary and provides the following definition for “least” or “at least:”

: one that is least

- **at least 1** : at the minimum

Clearly, one skilled in the art is aware of the English word “at least” and knows that “at least one server” means one or more servers, or a minimum of one server.

Application No.: 09/839,664  
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Further, Applicant's specification provides support for this recitation. By way of example, FIG. 2 at block #240 provides a decision: Did at least one server already handled the e-ticket? The specification further supports this decision (bold added):

Step 240 determines **if at least one of the responding servers** has already handled the e-ticket (i.e., at least one server sends a NACK). If so, then the conflict mode validation approach is selected in step 250. Otherwise, the conflict-free mode is selected in step 260. (See p. 10, lines 13-16).

Applicant respectfully reminds the Examiner that the law merely requires claim terms to be discernable. Additionally, the court of Customs and Patent Appeals has expressly warned that "*breath is not to be equated with indefiniteness*, as we have said many times." See *In re Miller*, 169 U.S.P.Q. 597, 600 (C.C.P.A. 1971) (emphasis added).

Applicant respectfully submits that upon reading the specification one of ordinary skill in the art would not find difficulty in ascertaining the meaning of the phrase "at least one server." The test for definiteness under 35 U.S.C. 112, second paragraph, is whether "those skilled in the art would understand what is claimed when the claim is read in light of the specification." *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1576, 1 USPQ2d 1081, 1088 (Fed. Cir. 1986); see MPEP § 2173.02

In view of the foregoing, Applicant respectfully requests withdrawal of the section 112, second paragraph, rejections.

## II. Claim Rejections: 35 USC § 101

Claims 1-2, 4-12, and 15-19 are rejected under 35 USC § 101 because the claimed invention is directed to non-statutory subject matter. Applicant respectfully traverses.

Under 35 USC § 101, patentable subject matter must have two basic criteria. First, the subject matter must be one of processes, machines, manufacturers, and compositions of matter. Generally, three categories are not included as patentable subject matter: (1) abstract ideas, (2) laws of nature, and (3) natural phenomena. Second, the subject matter to be patented must be "useful." Applicant's claimed subject matter meets both of these

Application No.: 09/839,664  
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criteria. Since the Office Action only argues the second criterion, Applicant addresses this issue.

Applicant's claims have a practical application in the technological arts since the claims produce a concrete, tangible, and useful result. In other words, the claims recite at least one step or one act that produces something that is concrete, tangible, and useful.

As one example, claim 1 recites that "steps a), b), c), and d) are performed to validate the e-ticket." Thus, claim 1 recites several method steps are performed to validate an electronic ticket. Clearly, this step produces a concrete, tangible, and useful result as validating an electronic ticket.

As another example, claim 6 recites "rejecting the e-ticket if the answer set is a subset of the second answer set and S<sub>i</sub> has not received its own broadcast." Thus, claim 6 recites a method step that rejects an electronic ticket. Clearly, this step produces a concrete, tangible, and useful result as rejecting an electronic ticket.

As another example, claim 10 recites that "steps a), b), and c) are performed to validate the e-ticket." Thus, claim 10 recites several method steps are performed to validate an electronic ticket. Clearly, this step produces a concrete, tangible, and useful result as validating an electronic ticket.

Claims 1 and 10 thus provides a "real world" value (i.e., validating an e-ticket), and claim 6 provides a "real world" value (rejecting an e-ticket). These real world values are more than a mere idea or concept.

The legal position of the Applicant is clearly supported in MPEP 2106. Further, Applicant respectfully asks the Examiner to review the decision in *AT&T Corp. v. Excel Communications*, 172 F.3d 1352 at 1358 (Fed. Cir. 1999). The law clearly states: "Only when the claim is devoid of any limitation to a practical application in the technological arts should it be rejected under 35 USC 101" (MPEP 2106: Emphasis added). Applicant has shown that the claims are not devoid of any limitation to a practical application in the technological arts.

Next, Applicant respectfully cites MPEP 2106 to support further their position:

The applicant is in the best position to explain why an invention is believed useful. Office personnel should therefore

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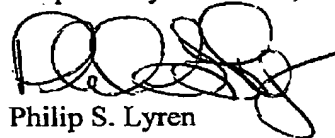
### CONCLUSION

In view of the above, Applicant believes that all pending claims are in condition for allowance. Allowance of these claims is respectfully requested.

Any inquiry regarding this Amendment and Response should be directed to Philip S. Lyren at Telephone No. (832) 236-5529. In addition, all correspondence should continue to be directed to the following address:

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Respectfully submitted,

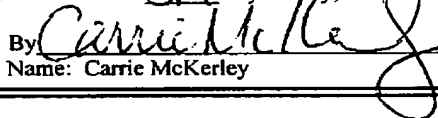


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#### CERTIFICATE UNDER 37 C.F.R. 1.8

The undersigned hereby certifies that this paper or papers, as described herein, is being transmitted to the United States Patent and Trademark Office facsimile number 571-273-8300 on this 5th day of July, 2006.

By



Name: Carrie McKerley

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